

**SUFFOLK COUNTY LEGISLATURE
SPECIAL MEETING
TENTH DAY
June 21, 2005**

**MEETING HELD AT THE WILLIAM H. ROGERS LEGISLATURE BUILDING
IN THE ROSE Y. CARACAPPA LEGISLATIVE AUDITORIUM
725 VETERANS MEMORIAL HIGHWAY, HAUPPAUGE, NEW YORK**

MINUTES TAKEN BY:
ALISON MAHONEY • COURT STENOGRAPHER

(*The meeting was called to order at 12:39 P.M. *).

P.O. CARACAPPA:

Roll call.

MR. BARTON:

Good afternoon, Mr. Chairman.

(*Roll Called by Mr. Barton • Clerk*)

LEG. CARACCILO:

Here.

LEG. SCHNEIDERMAN:

Here.

LEG. O'LEARY:

Here.

LEG. VILORIA • FISHER:

Here.

LEG. LOSQUADRO:

Present.

LEG. FOLEY:

Present.

LEG. LINDSAY:

Here.

LEG. MONTANO:

Here.

LEG. ALDEN:

Here.

LEG. KENNEDY:

Here.

LEG. NOWICK:

Here.

LEG. BISHOP:

Here.

LEG. MYSTAL:

Here.

LEG. BINDER:

(Not Present).

LEG. TONNA:

(Not Present).

LEG. COOPER:

Here.

LEG. CARPENTER:

Here.

P.O. CARACAPPA:

Here.

MR. BARTON:

16 present, Mr. Chairman (Not Present: Legislators Binder & Tonna).

P.O. CARACAPPA:

Thank you, Mr. Clerk. Everyone please rise for a salute to the flag led by Legislator Schneiderman.

Salutation

Please be seated. Thank you to everyone for being here for this Special Meeting. Mr. Clerk, could you read the Special Meeting Notice, please?

MR. BARTON:

Yes, Mr. Chairman. Filed in my office and before each Legislator, Notice of a Special Meeting dated June 17th, 2005, to all County Legislators from Joseph T. Caracappa, Presiding Officer, regarding a Special Meeting of the County Legislature. "Please be advised that a Special Meeting of the Suffolk County Legislature will be held on Tuesday, June 21st, 2005, at 12:30 P.M. in the Rose Y. Caracappa Legislative Auditorium located at the William H. Rogers Legislature Building No. 20, 725 Veterans Memorial Highway, Hauppauge, New York, Pursuant to Section 2•6B of the Suffolk County Administrative Code for the following purposes; a one

hour public portion", and three additional items." It's signed and was filed properly.

P.O. CARACAPPA:

Thank you, Mr. Barton. We'll go to the one hour public portion at this point in time which was Item No. 1. I have no cards. Anyone wishing to be heard? I'll make a motion to close public portion.

LEG. LINDSAY:

Second.

P.O. CARACAPPA:

Do I have to wait a minimum amount of time ••

LEG. FOLEY:

Fifteen minutes.

P.O. CARACAPPA:

•• before doing that? Oh, I have one card. Go ahead, you're up.
Who filled out the card?

LEG. BISHOP:

A citizen, it's outrageous.

P.O. CARACAPPA:

The first speaker is Jared _Foyer_. Each speaker has three minutes. This is not a question and answer period, it's your time and your time only. After you hear me say, "Sum up," please do so after three minutes. Mr. _Foyer_?

MR. _FOYER_:

Okay. Thank you very much. Good afternoon, Members of the Suffolk County Legislature. My name is Jared Foyer •• is the mike on •• and I am Director of the Suffolk County Office of the New York Civil Liberties Union. I'll try to be quick.

I'd like to start with a quote from the well-known liberal activist Rush Limbaugh; "Any time you start trading liberty for security, you're sunk." Rush is right, so are the states of Idaho, Colorado, Montana and Alaska in passing Bill of Rights resolutions that join 380 communities and seven states in reminding elected officials in all levels of government that the framers of our Constitution understood that we are safe people because we are free people. I know this might not seem like a local issue, but it is. Local communities coming together to be a part of a larger voice have made a tremendous difference.

We are now having the debate and the discussion that we need and that is all we ask from you. The language in the resolution can be changed to meet your concerns, but we ask that Suffolk join the hundreds of communities from Lexington, Kentucky to Westchester, New York to Jackson, Mississippi in simply calling for our elected officials to ensure that the Constitution is protected in future legislation as we move forward in this very important time in our nation's history.

I know it also seems controversial, but it's not. Conservatives have more than outpaced liberals in standing up publicly for the Constitution. Bob Barr, Newt Gingrich, Grover Norquist, Gun Owners of America. All Americans are coming together to stand for our Constitution during this important time in our nation's history. It does not matter your politics, it is just an exercise in democracy, but it is really needed right now. Please, help us add Suffolk to this nationwide chorus. Thank you.

LEG. VILORIA FISHER:

Thank you, Jared.

P.O. CARACAPPA:

Charlotte, it looks like Koons.

MS. KOONS:

That's right. Esteemed Legislator, my name is Charlotte Koons, a retired educator with over 40 years of service to Suffolk schools. I speak to you today as the Co-Coordinator for Suffolk Bill of Rights Defense Campaign, responsible for the Township of Huntington signing on to a resolution defending the Bill of Rights against the egregious parts of the Patriot Act, joining the over 370 municipalities and seven states condemning the act's civil liberties abuses.

Quoting from "The Missing Patriot Debate", an article by David Cole in the May 30th, 2005 edition of The Nation Magazine, which I will submit for the record, courts have •• "courts have declared some of its provisions unconstitutional. An impressive coalition of conservative and liberal groups has vowed to restore checks and balances to a law passed in haste and fear just six weeks after 9/11. Many of the worst provisions of the act are not even up for discussion. The disputes regarding the few provisions that are actually in play often concern only marginal details while skirting some fundamental issues. The 16 provisions at issue probably take up no more than 25 of the original act's 342 pages. The Patriot Act imposes guilt by association, authorizes the use of secret evidence and allows the detention without charges. But the Patriot Act debates will focus at most on a handful of provisions in a sweeping law. It will not address many of the troubling provisions of that law or other practices of the administration that raise far more substantial constitutional questions".

Though it may seem to skirt the main issues, I've been charged with discussing a seemingly innocuous section, No. 326 of the Patriot Act which basically establishes new and/or expanded requirements to track identities of persons opening new bank accounts. Though it sounds fairly innocent and seems to effect mostly foreign nationals, this act has been used to require local financial institutions and related local businesses to use privatized services to gather data required. Not only does this infringe on the right to privacy of their customers, it can also prove an expensive way of tracking records. Logically, it also seems to be creating larger haystacks in which to find that elusive and ill•defined terrorist needle.

Why, then, do I bother bringing a resolution dealing with such a limited scope of the Patriot Act before this body again and again, why do we bother? Because it's a slippery slope indeed, this Patriot Act culture. And to quote David Cole again, "Human rights, after all, are owed to every person by virtue of their human dignity, irrespective of the passport they carry." We must "tap into the power of world opinion and bring it to bear at home, especially when the United States selectively abuses the rights of other country's nationals."

And to me, the Suffolk County Legislature is home, where a truly patriotic stand must be taken to show our State and national Legislators that we here in Suffolk County uphold the human rights and principals of human dignity as put forth by our Constitution and its Bill of Rights. And I'll submit this including an analysis of the Section 326. Thank you.

P.O. CARACAPPA:

Thank you, ma'am. Mark Klein.

LEG. VILORIA • FISHER:

Thank you, Charlotte.

MR. KLEIN:

Mark Klein, father of four, resident of Suffolk for over 35 years. Earlier this year an amendment sponsored by Congressmen Sanders attempting to reign in the Justice Department's use of Section 215 of the Patriot Act failed to pass. The amendment was aimed at stopping the department's prying into the reading habits of Americans by its covert demanding of library and book store records. Since we met, the subcommittee, about two three weeks ago, the amendment was revisited and passed overwhelmingly by 238 to 187 votes. Why this time? Because of grassroots advocacy such as passage of over 370 resolutions from towns, cities and counties and a growing number of states, the latest being those of Montana which is a red state, if you color your map, Colorado and Idaho. Although this is a step in the right direction we can take little solace, for voices in Congress are calling for expansion of the Patriot Act. Further, the excesses of the Patriot Act and the patriot culture, the whole mentality undergirding it, have not begun to be significantly debated, let alone rectified.

Here are a few of the assaults of the patriot culture on our civil liberties and human rights. You've already heard mentioned use of guilt by association, that appears in a number of different ways. Less known is the penalizing of speech as opposed to action, barring international recognized scholars from coming into our country and teaching at such noticeable institutions as Harvard and Notre Dame. Also, less prominent is provision retroactively making behavior a quarter of a century old a deportable offense now, although no terrorism or violence was involved then or now by the individuals; and we can name names, these are actual cases. Use of secret hearings to deport individuals, use of secret evidence to freeze assets of groups who have neither been convicted nor charged with terrorism or violence. Criminalizing expert speech such as human rights training where no violence or terrorism is involved. Instituting wire types without demonstrating probable cause by invoking the excuse of foreign intelligence which is _vacuously_ defined by the Patriot Act and which may allow for taps which have nothing to do with terrorism or crime. Incommune •• incommunicado detentions without charges or due process, ethnic profiling, governmental spying on political, environmental, anti

•war and faith•based groups. And as most people know, systemic torture and coercive interrogation such as water boarding, that is prolonged, submerged, simulated drowning and other violations of the Geneva Convention ••

P.O. CARACAPPA:

Mr. Klein? Mr. Klein, your time has expired.

MR. KLEIN:

•• and declaration of human rights. I have one more sentence.

P.O. CARACAPPA:

Go ahead, sir.

MR. KLEIN:

If America is to be viewed as a beacon of freedom, justice and decency, we must condemn the patriot culture, fix the excesses of the Patriot Act and restore the Bill of Rights and the rule of law. Thank you.

P.O. CARACAPPA:

Thank you very much. I appreciate it. No other cards? Anyone wishing to be heard?

Now I'll make that motion to end public portion.

LEG. O'LEARY:

Second.

P.O. CARACAPPA:

Second by Legislator O'Leary. All in favor? Opposed? Abstentions? Public portion is now closed.

MR. BARTON:

16 (Not Present: Legislators Binder & Tonna).

P.O. CARACAPPA:

Thank you.

Moving on to Item No. 2 on the agenda.

LEG. O'LEARY:

Mr. Chair?

P.O. CARACAPPA:

I recognize Legislator O'Leary.

LEG. O'LEARY:

I would like the opportunity to request a five minute recess, I will make a motion to that effect.

P.O. CARACAPPA:

Five or ten? You want to make it ten to be on the safe side?

LEG. O'LEARY:

Okay, ten minute recess.

P.O. CARACAPPA:

Ten minute recess.

(* Brief Recess Taken: 12:51 P.M. 1:14 P.M. *)

P.O. CARACAPPA:

Roll call.

(* Roll Called by Mr. Barton • Clerk *)

LEG. CARACCILO:

Here.

LEG. SCHNEIDERMAN:

(Not Present).

LEG. O'LEARY:

(Not Present).

LEG. VILORIA • FISHER:

Here.

LEG. LOSQUADRO:

Present.

LEG. FOLEY:

Present.

LEG. LINDSAY:

Here.

LEG. MONTANO:

Here.

LEG. ALDEN:

(Not Present).

LEG. KENNEDY:

(Not Present).

LEG. NOWICK:

Here.

LEG. BISHOP:

Here.

LEG. MYSTAL:

Here.

LEG. BINDER:

Here.

LEG. TONNA:

(Not Present).

LEG. COOPER:

Here.

LEG. BISHOP:

He's still caucusing Tonna.

LEG. CARPENTER:

(Not Present).

LEG. SCHNEIDERMAN:

Henry, I'm here.

P.O. CARACAPPA:

Here. O'Leary is in room Kennedy is in room.

MR. BARTON:

14 present (Not Present: Legislators Alden, Tonna, Carpenter.

CHECK VOTE SLIP)

P.O. CARACAPPA:

We're on Item No. 2, this is to consider and vote on Home Rule Message No. 7 which this Legislature has already approved but there has been an amended version. Counsel?

MS. KNAPP:

This is a relatively simple problem. The Legislature approved this at our last General Meeting and the Senate realized basically, as we were approving it, that the Assembly version had incorporated the fiscal note into the bill while the Senate version had included it in the backup. So there's an A version on the Senate, there has been no other change other than that.

P.O. CARACAPPA:

Okay, pretty self-explanatory. There's a motion by Legislator O'Leary, second by Legislator Lindsay.

LEG. CARACCIOLO:

On the motion.

P.O. CARACAPPA:

On the motion, Legislator Caracciolo.

LEG. CARACCIOLO:

What is the financial impact?

LEG. MYSTAL:

Ten million dollars.

P.O. CARACAPPA:

You tell them, Elie.

MS. KNAPP:

It is \$1,600 annually and a one time payment of \$5,680.

P.O. CARACAPPA:

Any other questions? All in favor? Opposed? Abstentions? Approved.

MR. BARTON:

16. 17, I'm sorry, 17 (Not Present: Legislator Tonna).

P.O. CARACAPPA:

Thank you.

Item No. 3, to consider and vote on Home Rule Message No. 10-2005.

LEG. BINDER:

Mr. Chairman?

P.O. CARACAPPA:

Can I finish reading? To amend the Public Authority's Law in relation to enacting the Suffolk County Judicial Facilities Agency Public Construction Flexibility Act, to facilitate expedition of the new replacement correctional facility at the Yaphank project, Legislator Binder. Is there a motion?

LEG. BINDER:

Motion to adjourn.

P.O. CARACAPPA:

Motion to adjourn by Legislator Binder.

LEG. ALDEN:

Second.

P.O. CARACAPPA:

Second by Legislator Alden.

LEG. BINDER:

It's not debatable.

LEG. BISHOP:

What's the motion?

P.O. CARACAPPA:

Motion to adjourn.

LEG. BINDER:

Roll call. It's not debatable.

P.O. CARACAPPA:

Roll call.

LEG. BISHOP:

You need a majority of ten.

LEG. O'LEARY:

On the question of the motion.

P.O. CARACAPPA:

It's not debatable, according to Legislator Binder.

LEG. FOLEY:

How about Counsel?

LEG. BINDER:

You can ask Counsel.

P.O. CARACAPPA:

Counsel?

MS. KNAPP:

I don't believe that we have it in our rules, but in Robert's Rules.

LEG. FOLEY:

Robert's Rules don't govern.

(*Roll Called by Mr. Barton • Clerk*)

LEG. ALDEN:

Yes.

LEG. BISHOP:

Aren't we governed by our rules?

LEG. FOLEY:

We're governed by our rules.

MS. KNAPP:

Except if there's an omission in our rules we fall back on Robert's.

(*Roll Call Continued by Mr. Barton • Clerk*)

LEG. COOPER:

No.

LEG. TONNA:

(Not Present).

LEG. MYSTAL:

No.

LEG. BISHOP:

No.

LEG. NOWICK:

Yes.

LEG. KENNEDY:

Yes.

LEG. MONTANO:

No.

LEG. LINDSAY:

No.

LEG. FOLEY:

No.

LEG. LOSQUADRO:

Pass.

LEG. VILORIA • FISHER:

No.

LEG. O'LEARY:

Pass.

LEG. SCHNEIDERMAN:

No to adjourn.

LEG. CARACCILOLO:

Yes.

LEG. CARPENTER:

Pass.

P.O. CARACAPPA:

Pass.

LEG. BISHOP:

Oh, you don't have the votes.

LEG. LOSQUADRO:

No to adjourn.

LEG. O'LEARY:

Yes.

LEG. CARPENTER:

Yes.

P.O. CARACAPPA:

No.

MR. BARTON:

Seven.

P.O. CARACAPPA:

It fails.

LEG. CARACCIOLO:

Mr. Chairman?

P.O. CARACAPPA:

I recognize Legislator Caracciolo.

LEG. CARACCIOLO:

Thank you. Counsel, could you summarize the provisions of the Senate and Assembly bills? And if this legislation relates strictly to the Judicial Facilities Agency Flexibility Act and the monetary aspect of that, or does it go beyond that and change the composition of the JFA Board?

MS. KNAPP:

Well, starting with the last first. Yes, it does change the composition of the JFA board; it increases it from five members to seven members and the additional two members would be appointments by the County Executive.

LEG. CARACCIOLO:

And would these members •• are they currently compensated?

MS. KNAPP:

No, the bill does not allow compensation for the agency members.

LEG. CARACCIOLO:

It does not.

MS. KNAPP:

No, the only •• reasonable expenses are allowed under the State legislation. And the only other •• you know, there is a provision that they have to keep themselves advised and

educated as to their areas of expertise, which I assume would mean, you know, certain expenditures for annual education, but no compensation.

LEG. CARACCILO:

Could I have someone from the County Executive's Office explain the necessity to change the composition of the board, I'd appreciate that.

P.O. CARACAPPA:

Mr. Sabatino?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Yes. First of all, I want to thank the Presiding Officer on the ••

P.O. CARACAPPA:

Go ahead, Paul. You're good.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Is it working? Okay. I want to thank the Presiding Officer, on behalf of the County Executive, for calling the Special Meeting. I want to make clear that the necessity for the Special Meeting was because the State Legislature was working on a tight time line, they were unable to really deal with the substance of the proposed changes for the Wicks Law exemption until they cleared away the whole issue with Jets Stadium in New York City. So the necessity for the vote taking place now as opposed to the last meeting was really just a function of the way the State is operating.

With regard to the change in the composition, the first thing I want to emphasize is that even though there is a change from the standpoint of the County Executive having two additional appointments, the Legislature continues to have a majority, four of the seven or 58%.

So the change, in effect, is that previously the JFA had one Executive appointment out of five which was 20%, this would go to three which would bring it to 42%, but the Legislature still has a majority of the appointments. The point ••

P.O. CARACAPPA:

Mr. Sabatino, just while you're on that.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Okay.

P.O. CARACAPPA:

What was the original Assembly •• I'm sorry. Go ahead, Alison.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

The original composition ••

P.O. CARACAPPA:

Just hold it one second, Paul. I want to clarify my question as soon as she's ready.

LEG. FOLEY:

Alison, you have some influence on this group, I'll tell you.

P.O. CARACAPPA:

Okay? The original bill that I had seen drafted from the Assembly that was sent to me a couple of days ago, what was that makeup of the board as proposed by the Assembly?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

That was a mistake but that had nine which would have added four Executive. That was not something that we requested, it was a miscommunication as far as I can see in the State. But you're right, there was a version that you saw, and I think it was Thursday, that had nine which would have been four Executive. But as I notified you that day, that was not something that we had requested and I immediately communicated to the State that they had made a mistake.

LEG. CARACCILOLO:

Okay. Mr. Sabatino, that clarifies for me what I thought was an important issue that needed clarification. Because clearly, as part of saving the taxpayers money, I did not want to see a change in the composition so that it would tilt it one way or the other. So essentially what you're saying is the board composition remains the same.

LEG. CARPENTER:

No.

LEG. CARACCIOLO:

Or at least in terms of the majority representation.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

No, I want to be clear, okay. The original JFA bill going back to 1986, let that ••

LEG. CARACCIOLO:

Five members.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

There was five members, that was one Executive, two Legislator, Presiding Officer and Minority Leader; that was a function of a whole series of events that are unrelated to the current situation, but that ••

LEG. CARACCIOLO:

Cohalan Court Complex and •• yeah.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

It was a dynamic of Cohalan wanted to get the court named, either they couldn't get bonding, they needed 12 votes to get bonding, they couldn't do it, it was an alternative to get the ten votes by doing the lease•back agreement. The compromise and the trade•off was that to get to the ten votes, Cohalan wasn't going to be hands•on, he didn't really care, they would go with the ten. But also, also, the original Cohalan Court Complex was being constructed by the State Dormitory Authority, so the County was really just a conduit. There was less reason for the County Executive to be involved in the process, there was less need for accountability at the Executive level because the Dormitory Authority was actually doing the project, that's not the case here. It's a little bit different because we're going to be having ••

LEG. CARACCIOLO:

Okay.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Okay.

LEG. CARACCILOLO:

You addressed my concern, one of my concerns. I have a couple of other questions. The construction manager for this project would be whom?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

That has not been determined yet, there's a process for doing that selection. It will be a firm, at this particular juncture I don't know who it's going to be, though.

LEG. CARACCILOLO:

Okay. Will it be under Commissioner of Public Works' supervision or some State agency? Because we've had issues like that before that we have felt very strongly about acquiescent to the State or somebody in Albany the authority to oversee a capital project here.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

No, the Dormitory Authority proposal from a year ago didn't work out at the end because of their unwillingness to adhere to the Local Preference Law. So this is going to be a local project, it will be Public Works doing the actual project. The JFA, though, just to clarify, has to do two important things. One, they have to pass a resolution first, bring us into compliance where we're going to adhere to the Local Preference Law. Number two, they've got to pull the trigger for the living •• not the living wage, for the ••

LEG. FOLEY:

Prevailing.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

•• project labor agreement. The project labor agreement then, in fact, triggers the Wicks Law Exemption, that's where we get the \$19 million in savings. Public Works at that point will then pick up the project and actually do the work. Public Works will have a construction manager, I don't know who that's going to be.

LEG. CARACCILOLO:

Okay, they'll also have a Clerk•of•the•Works.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Yeah, I think two of them, in fact.

LEG. CARACCILOLO:

Right, okay. Now, the mechanics. The Home Rule is before us, it gets rushed up to Albany, the State Senate and Assembly could conceivably vote on it before adjournment later this week. The JFA is now changed, there's a new composition; what happens to the current board and board members and do they •• do some of them roll over and become part of the seven member board or are they all eliminated and a new board appointed?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Okay. Well, the answer to your first question is that the representation has been made by the State that if we get the bill to them overnight there will be a vote taken tomorrow. Their deadline, obviously, is Thursday. So we're confident the vote will take place tomorrow at the State level, if, in fact, the Home Rule Message is adopted.

With regard to the membership, what will happen is within •• the existing members terms will immediately expire, within 60 days, within 60 days the new seven member board has to be appointed. However, nobody who currently sits on the board is automatically disqualified, each of the appointing authorities, which are the County Executive, Minority Leader, Presiding Officer and Legislature as a whole, will still have the right to pick whomever they or he or she chooses.

LEG. CARACCILOLO:

And who currently is on the board?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, I know Mike O'Donohoe is ••

LEG. CARACCILOLO:

The chair, he chairs.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

•• I know Lou _DeMarro_ is, I think Marty Cantor is.

P.O. CARACAPPA:

Lou _DeMarro_ , Martin Cantor, Mike O'Donohoe, Philip _Castrovissini_ ••

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Castrovissini was the other one, right.

P.O. CARACAPPA:

•• Steven Morrison, all but one of those terms have expired some time ago.

LEG. CARACCILOLO:

Okay. Is there any preclusion from one of those individuals, also, as I understand it, is a candidate for a County Legislative position, serving on the JFA?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

No, the Statute does not prohibit somebody who currently works for a municipality from being a member. The only question on having somebody from the County Legislature would be ••

LEG. CARACCILOLO:

In this case, we're talking about a candidate for County Legislature.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

I think you might have a question, you know, in terms of having to vote on things because ••

LEG. CARACCILOLO:

Right. Well, that was my point I was getting to.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Yeah. I don't think it's •• it's not a specific ban, but I think you might for ••

LEG. CARACCILOLO:

Should there be an opinion sought by the Ethics Commission?

LEG. BISHOP:

It's not an ethic's issue.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, I think you could probably resolve it with Counsel's opinion if that was an issue.

LEG. CARACCILO:

Okay. Which Counsel, Legislative Counsel?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, for the Legislature or you could ask the County Attorney's office, you could get both.

LEG. CARACCILO:

Okay, I'd like to request that opinion now, Mea, if this resolution is approved so that we ••

MS. KNAPP:

Whether a candidate for public office?

LEG. CARACCILO:

A candidate for County Legislature could serve on this reconstructed JFA.

LEG. BISHOP:

Why not? What would be the argument against it?

LEG. CARACCILO:

Well, that's another issue, Dave. Okay? I'm just bringing up some of the changes that are in the legislation. The bottom line here,

Mr. Sabatino, is, again, as I understand these Assembly and Senate bills, is that first and foremost, the provisions of the Wicks Law would be waived, correct?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

The •• that's the second thing that would be done. The first thing you'd want to do is the board would pass a resolution saying they're going to adhere with the Local Preference Law. The

second thing would be to make a determination pursuant to the State Statute that they want to go with the project labor agreement; that, in effect, or in turn is what triggers the waiver. It's a little bit convoluted the way they wrote the State statute, but you need that affirmative act from the JFA board to get to the Wicks Law Exemption. Once that happens, then you have the capability of generating those projected savings.

LEG. CARACCILO:

Okay. And time is of the essence because?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, time is of the essence right now for two reasons.

LEG. CARACCILO:

Because of the Legislative calendar, number one.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Yeah. But number two, number two, what's really important is that the Capital budget that was submitted by the County Executive for 2006 and the program for 2006, 2007 and 2008 included the projected savings of \$18.9 million for the Wicks Law and the \$25 million that was projected for basically not including the core for Phase II. This was basically a consensus that was arrived at I believe by meeting with members of that committee which included the Sheriff's Office, Presiding Officer, Chairman of Public Safety, Chairman of Public Works; there was a consensus to try to get •• to drive down the escalating cost of that jail based on those two components. So the problem is that •• not the problem, but the issue is that since the Legislature, when it adopted its amendments two weeks ago for the Capital Budget, took into account and accommodated the same \$40 million worth of net savings. If you don't make this change, the problem you've got is that you have to make up \$18.9 million worth of those changes someplace else. The County Executive has stated repeatedly that he will go someplace else in the Capital Budget to make up that difference and then you're going to have to be concerned about other projects being at risk. So that's the reason for the urgency, you're about to vote on your Capital Budget ••

LEG. CARACCILO:

Veto overrides.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

•• if there are any vetoes or, you know, finalizing the approvals at the end of the month, so we need to know where the Capital budget stands by the end of June.

LEG. CARACCILOLO:

I can see how all the pieces come together here. And as I said earlier, the current makeup is five, it changes to seven.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Correct.

LEG. CARACCILOLO:

And in terms of the representation, you're stipulating •• your stipulation is that there are still four Legislative appointments, however one is from the Minority Leader of the Legislature, and we all know what that means. Okay, thank you.

LEG. LINDSAY:

What does it mean, Mike? What does that mean, Mike?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, no, because I think that, you know, the fact that you see vetoes overridden periodically, the Legislature I think is considered a block.

LEG. CARACCILOLO:

Why can't we take out of this legislation the issue of a seven member board and just leave it the way it is; why is that so important at this juncture, to change the composition of the board?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

What was important was to get additional County Executive representation for the reasons I outlined before which is that unlike what happened during the Cohalan Court Complex period, the County is going to have a much more active and fully engaged roll because they're not going to just be a conduit to try to bypass the need for bonding. We're still going to be doing bonding, we're still going to be doing an active County project, and with that comes

accountability and responsibility. And the County Executive's point is that 20% representation on the board really doesn't provide the kind of input that's necessary to monitor the project at that JFA level. So we believe that because we're going to be doing much more than the JFA had to do for the Cohalan Court Complex, that we want to have more participation. It's more of that attitude of being hands•on and involved and fully engaged.

LEG. CARACCILO:

Okay. Thank you, Paul.

LEG. O'LEARY:

Mr. Chair?

P.O. CARACAPPA:

We've got a list.

LEG. O'LEARY:

Put me on, please.

P.O. CARACAPPA:

You're next.

LEG. O'LEARY:

I'm up?

P.O. CARACAPPA:

Yep.

LEG. O'LEARY:

My question is of Mr. Sabatino and then I want to ask a question of Counsel. With respect to the makeup, the composition of the JFA, this pertains only to this particular project? Once you form the JFA, the new composition, clearly it outlines the fact that it's for the correctional facility at Yaphank. Is the JFA only restricted to that particular project or is the JFA, is it contemplated that the JFA will be utilized in the future for other major Capital projects?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, right now it's restricted based on the proposed State language and the existing State language to whatever is left over from the Cohalan Court Complex and the new replacement facility at Yaphank.

If you want to go beyond either of those two items, you're going to have to go back to the State Legislature and get new enabling State legislation. So it doesn't go beyond those two components.

LEG. VILORIA • FISHER:

He's not answering the question.

LEG. O'LEARY:

The way I'm reading this, it's applicable only to the project that's going to build the facility at Yaphank, the correctional facility; you're saying that's not the case?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

No, because all of the existing language dealing with the Cohalan Court Complex has been left in tact. As a practical matter, I think there's only one outstanding issue that's left for the JFA to deal with on the Cohalan Court Complex, I think there's only •• it's a one or a \$2 million issue with regard to some refinancing that was done in the year 2000. But beyond that, as a practical matter, there's not going to be anything else I can think of that would be related to the Cohalan Court Complex. But notwithstanding that, they have that authority to still deal with the issue.

P.O. CARACAPPA:

Legislator O'Leary, in other words, the JFA stays constant as it was in the past, it just adds the jail and we wouldn't be using it for like, say, a new precinct or something of that nature.

LEG. O'LEARY:

We would or we would not?

LEG. LINDSAY:

Would not.

P.O. CARACAPPA:

Would not.

LEG. O'LEARY:

Okay.

P.O. CARACAPPA:

Unless we went to the State and said, "Give us," which they would tell us to take a walk.

LEG. O'LEARY:

All right, fine. So then the new composition, the JFA precludes them to act or the County to act on any future projects other than the correctional facility with respect to this.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Right. It's not the composition, it's the rest of •• the statute is long, it goes on for pages. But the important thing is that, number one, it does not repeal the preexisting Cohalan Court Complex provisions except for those that would be inconsistent with the new composition. And again, it's a practical matter, there's only one issue that I know of that's still out there and it's about a \$2 million issue, that's why we had to keep the board functional in terms of authority to deal with both the Court complex as well as the correctional facility. But the short answer is there is absolutely no way that this authority as currently constructed could go into new projects or into new areas of concern.

LEG. O'LEARY:

Okay, thank you. And to Counsel, I have a question regarding some of the language in the amended resolution. It's on page six of the 12 pages, line 50, subdivision B, it refers to a compensation schedule; can you explain that to me, please, just what that is in reference to? Page six of my copy, line 50, subdivision B, "A compensation schedule that shall include by position, title and name of the person holding such title, the salary, compensation, allowance and/or benefits applied to any officer, director or employee;" I'm assuming that's any officer, director, employee of the agency?

MS. KNAPP:

I have to assume the same thing. There is an ability to impose a fee and I assume that if there's a need to employ someone that the fee will be utilized for that purpose.

LEG. O'LEARY:

So this particular language authorizes the JFA to hire additional personnel?

MS. KNAPP:

It presumes that they will •• that they can hire additional personnel, yes.

LEG. O'LEARY:

And was that in the previous resolution or is this new?

MS. KNAPP:

All of section two is new.

LEG. O'LEARY:

Okay.

LEG. FOLEY:

It's submitted annually.

LEG. O'LEARY:

Yeah. And the only other question I have which is also new, there's a disclosure provision, a financial disclosure statement provision in the •• on the bottom of page eight, line 50, subdivision C, and that applies to board members, officers and employees. Now, when •• my concern is that there's employees attached in this JFA; so by virtue of approving this, are we, in effect, authorizing the JFA to hire people to advance their initiatives?

MS. KNAPP:

Well, the JFA is an entirely separate agency.

LEG. O'LEARY:

Right.

MS. KNAPP:

So to the extent that they're created by State law, this Legislature as a body does not authorize

them to hire any employees, they're entirely governed by the State legislation.

LEG. O'LEARY:

But does the enabling State legislation authorize them to do that?

MS. KNAPP:

They certainly have the ability to do that, yes.

LEG. O'LEARY:

Thank you.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Mr. Chairman, could I just jump in? I might be able to embellish on that fact. The existing JFA as it existed from 1986 always had the authority to either hire personnel or to hire outside consultants. The significance of Section II that you were reading from is that that's one of the so-called \"brodski\" or \"sarbaines only\" type reform. So all that section is talking about is full disclosure of that kind of information to the extent that the JFA would have those kinds of expenditures. So that's a disclosure provision, not an authorizing provision.

P.O. CARACAPPA:

Legislator Vioria•Fisher.

LEG. VILORIA•FISHER:

Thank you, Mr. Chair. Paul, can you walk us through the way in which we're going to arrive at a \$19 million savings? I'm having trouble getting •• wrapping my mind.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

How we're getting to the savings?

LEG. VILORIA•FISHER:

How are we going to save \$19 million?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, there's two components to the \$40 million savings. The first component is basically •• well, it's a combination of two things. It's not building the core for Phase II at the time that

we're doing the construction of phase I, which basically means a reduction in gross square footage which State COC is currently working with the Department of Public Works on arriving at; that's estimated to be approximately 25 million. The \$18.9 million is a conservative projection as to what the savings could be in the event that you don't have to comply with the Wicks Law which is all of those separate contracts. Quite simply, it's based on a 15% formula; it's 15% of the construction costs projected for phase I, that just translates arithmetically into 18.9. If there were ever to be a phase II, you'd also apply the 15% to whatever phase II is, but we're really focusing right now on phase I in terms of the Capital Budget and Program.

LEG. VILORIA • FISHER:

But when we do PLA, when there's PLA, isn't there also a fee for the coordinator of that, of the PLA; don't we have to hire a consultant to put that together or an agent?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, Charlie Bartha is here, I mean, he might know a little more of the nuances of how the PLA's are put together. I know there's going to be •• we already have a consultant on board and there will be a project manager at some point. I'm not sure that there's an additional cost associated with that.

LEG. VILORIA • FISHER:

Is there an additional layer is what I'm asking, is there an additional layer when you have the PLA?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, it's not so much an additional layer as it is •• it's an additional step, there has to be a formalized agreement. We were going to do the PLA irrespective of the Wicks Law. There was always •• in the resolution you adopted a year ago when we were looking at the Dormitory Authority, one of the conditions with the Dormitory Authority transaction was how to be a project labor agreement. That's just something that basically in theory ensures that you're going to have continuity on a project so that if a labor dispute is happening someplace else, these people agreed to work throughout the entire project. It also in theory clarifies the lines of responsibility between the various unions that are doing all of the work. That was going to happen irrespective of whether we went with the Wicks Law, it's just that the State Legislature said that the price of getting the Wicks Law with specific language saying that you were going

to do the project labor agreement. So it's no different than where we were a year ago, but I personally can't give you a dollar cost associated with that.

LEG. VILORIA • FISHER:

Okay. Paul, getting back to Legislator O'Leary's questions, just to clarify your response, what you're saying is you're not adding any additional authority that these clauses are limiting clauses or disclosure clauses.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

These are the open disclosure, the _Sarbanes Oxly_ type of provisions and some of the _brodsky_ type provisions which try to bring more transparency and openness to an authority; in this case, this particular authority. So it's just taking •• whatever work you currently would be doing under the old JFA or the new JFA, you have to have more disclosure.

LEG. VILORIA • FISHER:

Would you know, Paul, if the JFA has had staff and how much they've had, how many staff members they've had during the past ••

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

The old JFA my knowledge never had actual line staff, but they did in the early stages of the project ••

LEG. VILORIA • FISHER:

When it was more active.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

•• have to use investment bankers and consultants and bond counsel, all the things that were associated with the financing that they did. Because that particular transaction, to get to ten votes instead of 12, relied on them floating the actual bond and then doing this lease back agreement with the County. So they clearly incurred costs from outside parties, but they were all in connection with and related to the issuance of I believe it was a hundred million dollar project.

LEG. VILORIA • FISHER:

And the member at that time did not have to file financial disclosure statements?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

No. None of the things that you see in this statute •• and there are about nine or ten really tough disclosure and prohibitions on who can do the audits and dissemination of the annual audit information to Ways & Means in the State Assembly and the Finance Committee in the Senate and the State Comptroller, Budget Review is given copies of the documents; I mean, you've got about nine or ten major disclosure provisions which don't apply to any other authority in the State of New York, this would be the first time.

LEG. VILORIA • FISHER:

Thank you, Paul.

P.O. CARACAPPA:

Oh, I'm sorry. Legislator Kennedy.

LEG. KENNEDY:

Mr. Sabatino, I just have a couple of quick questions with this. What is it that we as an entity must do in regards to our negotiations with the Commission on Corrections, vis•a•vis the jail; by what point must we actually go ahead and be engaged, I guess, to begin the actual work of jail construction?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, the current deadline remains the same, although it's under reconsideration. But the current deadline is a spade in the ground by June of 2006, that's the schedule that we were operating under last year. But I will acknowledge that because there's been a constructive dialogue and a meeting with, as I stated before, that working group of Legislators and people from the Sheriff's Office as well as the County Exec's Office, there's hope and there seems to be some willingness at the State level to perhaps work around those deadlines. But right now we're talking June of 2006.

LEG. KENNEDY:

In regards to the jail as it stands now, where are we as far as having plans and an actual accepted, I guess, architectural set of schematics with which a contractor would be solicited, engaged and be able to go forward to complete the work; where is that at this point?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

I have to bring Charlie up because I was not at the meeting in Albany. I know that a couple of weeks ago we had our architect and engineering people meet with the State people because they were going to work on trying to change the gross square footage, but I personally wasn't there so I'll defer to Charlie.

LEG. KENNEDY:

Thank you. Charlie?

COMMISSIONER BARTHA:

Yes, Legislator Kennedy. You're asking when we will be prepared to bid the job?

LEG. KENNEDY:

I'm asking you, as we sit here today, what do we actually have at this point that represents constructing phase I?

COMMISSIONER BARTHA:

We have schematic drawings at this point.

LEG. KENNEDY:

So in other words, you've got an actual that could be let with which to go ahead and solicit the RFPs and contract •• enter a contract with somebody to build?

COMMISSIONER BARTHA:

No, no. Schematic drawings are not contract documents, we still have to develop those into detailed construction drawings and contract documents as well as having ••

LEG. KENNEDY:

Okay, Charlie, I'm ignorant; give me the time frame. What are we looking at from what we have now till we get to the point where we go through the letting process that we have to go to as a municipality to actually engage a contractor to construct?

COMMISSIONER BARTHA:

I would anticipate that next spring we would be advertising for bids.

LEG. KENNEDY:

Spring time is a long time, Charlie.

COMMISSIONER BARTHA:

Spring is a longtime? You mean it's a long three month period?

LEG. KENNEDY:

I mean, give me something.

COMMISSIONER BARTHA:

Well, right •• what I have to give you is the Corrections Commission deadline right now is approval documents by December. They've also told us, because as Paul indicated about the process that the County is making and the COC respects that, and in order to drive the price down they realized that we need more time with the design. So we have an informal agreement with them that they will allow us five more months to do that design work. So that brings •• that's why I'm saying next spring. I mean, I believe by April, May of next year we will have bid documents.

LEG. KENNEDY:

Is any of this work that's going on right now dependent on what's sitting in front of us today? Our architects, design personnel or anybody else subject to Wicks, or somehow engaged with JFA; who at this point is doing this work for whom?

COMMISSIONER BARTHA:

The architects are doing the work for the County at this point. And it is •• there is a difference between documents that are bid for Wicks Law and documents that are bid without Wicks Law. Without Wicks Law, the documents would be prepared as one large contract with the possibility we're considering breaking out as a separate bid certain components of it, by our choice rather than by being dictated by the Wicks Law. But the architect, if it's a Wicks Law project, has to

divide it up into, okay, this is the electrical contractors work, this is ••

LEG. KENNEDY:

Electrical, plumbing, HVAC and GC.

COMMISSIONER BARTHA:

Right. So there is a difference in the drawings and that's the kind of thing •• we will effect a savings •• well, what our intention is is to •• if we do receive a Wicks Law exemption, that we will bid it both ways, we'll bid the project both ways in order to have a ••

LEG. KENNEDY:

Whoa, hold on. Say that again, please?

COMMISSIONER BARTHA:

That we would bid the project both ways so that we would have a clear indication, because it is debated in various circles whether a savings is attributed to Wicks Law, by not having Wicks Law. I firmly believe there's a savings by not having Wicks Law.

LEG. KENNEDY:

Who believes it's not? In other words, there's a body out there that says that, in fact, if you construct under Wicks you don't necessarily effect savings that are propoorted to be represented here?

COMMISSIONER BARTHA:

I have had discussions with some members of the Legislature that ••

P.O. CARACAPPA:

Legislators have said that.

LEG. KENNEDY:

But we •• all right, all right. Before I go down that direction, I need to understand then that this work that's being done right now is being done immaterial of what happens with a JFA and there is no need to go ahead and necessarily have Wicks relief or not, plans are being developed and are going to be developed •• actually two sets of plans.

COMMISSIONER BARTHA:

That's correct. But it is very important for us to know as early as possible whether Wicks Law applies or not, it's important to the contracting community. We're planning a number of outreach measures in order to •• this is a very large job and in order to solicit the most competitive bids from the local construction community, we plan on having meetings ahead of time where we invite contractors to come in, review plans, make suggestions, and those are the •• it's important for us to know because contractors have bonding capacities. If this is primarily a single prime contract, that will effect joint ventures that firms may start putting together in order to be able to bid this project.

LEG. KENNEDY:

There's a myriad of different possibilities that I'm sure might or might not evolve dependent upon where things go here.

Who actually is the contracting entity? Assuming that we go forward, assuming that the changes are made, who does •• who on this side, I guess, of the fence is the actual entity that executes a contract with whomever the selected vendor or vendors are?

COMMISSIONER BARTHA:

It's my understanding that it would still be Public Works and the Suffolk County Executive's Office that would sign the contract.

LEG. KENNEDY:

Now I'm thoroughly confused. And what role does JFA play?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

JFA will have to make the award of the contract under the Wicks Law legislation, but they're going to contract with the Department of Public Works to actually do and manage the construction work. If you want to take advantage of the Wicks Law exemption that's being provided, it's got to go through the State entity for the award of the contract.

LEG. KENNEDY:

Which may or may not save money.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

It's a projection based on the formula I described before. There's a belief out there that a Wicks Law exemption changes, reduces the cost. But here's the bottom line and here's the important point, is that the Capital Budget and the amount of money that's available to be appropriated is going to be limited to that \$122 million. So you're going to have \$122 million, you cannot go above that unless the Legislature is going to be appropriating or amending the Capital Budget at some future date. So those are the confines within which we're working. The County Executive has made a commitment to bring this project in at that lower figure and not to allow the cost to escalate beyond that, and that's why we sought the exemption to give us all of the tools, the maximum flexibility to see if we can meet this target of the 18.9 and that's considered to be a conservative figure.

LEG. KENNEDY:

Why would we seek to go down both roads then? Charlie just mentioned that we're going to have plans that would reflect Wicks relief and plans that would reflect Wicks compliance. If we're budgeting 18 million savings for '06 Cap, why would we seek to go down two paths simultaneously?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Because the County wants to be absolutely certain that we're paying the lowest possible competitive price for that project. And because there is •• you know, there is a difference of opinion amongst people with regard to the impact of the Wicks Law. Wicks Law exemptions are not granted on a routine basis; in fact, very few of them are actually granted. So you don't have ••

LEG. KENNEDY:

The City of New York School Construction Facility, as a matter of fact, has been exempt from Wicks for nine years and has proven not to go ahead and realize savings at all.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Yeah, New York City is the exemption in the State. New York City does get the exemptions. There's a school of thought out there that believes because of the way the management structure is set up in New York City, that that's been the major cause of their problems. That's one of the reasons why we made the argument before about having accountability and responsibility to manage this project.

LEG. KENNEDY:

And so at no point, though, will JFA actually be the party on the municipal side that is actually the party that's in contract. In other words, it is going to be the County of Suffolk, by and through it's agent DPW, in contract with _Acme_ Construction.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Yeah, at the end of the day the County is going to be the party responsible to deal with the contractor, but JFA will be involved.

But it's not going to be like 1986 where you had the Dormitory Authority or a State agency actually doing the project, the County will be doing the project.

LEG. KENNEDY:

All right, that's it for now, Mr. Chairman.

P.O. CARACAPPA:

Thank you. Legislator Nowick.

LEG. NOWICK:

I'm just trying to understand, was the Cohalan Court Complex built with five members on the JFA?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Five members, right.

LEG. NOWICK:

Well, if the County is going to be doing most of the work through DPW and JFA is only there as a vehicle to disallow the Wicks Law, why •• what is the need for two more people on the JFA? We built an entire court complex with five, what is the need for two more? I just don't understand what the need is. Because I think that seems to be the point here that is the problem, the JFA we know is a good entity to deal with.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, not to be argumentative about the Cohalan Court Complex, but they had to cut four stories off the top of it, so.

LEG. NOWICK:

Well, but that wasn't because there were five members on the JFA.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

No, no.

LEG. NOWICK:

Oh.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

But because the project •• but the point is that you become accountable at the end of the day, you know, for what takes place. So at the end of the day back in whatever that year was when they had to lop off the four stories, everybody was pointing fingers saying who was responsible. So I think that when •• and that's in case where the County had a limited role. The concern here is that the County itself is going to have a much more proactive role because we are going to be managing and constructing the entire project. And the concern really is that when you only have 20% of the representation on that group the County Executive doesn't have as much involvement and engagement in the process, and we just believe that getting to 42% with the three representatives will give the County Executive more input.

LEG. NOWICK:

But doesn't DPW have the biggest job of all, the biggest input of all? So other than •• I'm just trying to understand what the change is because I do believe in the JFA and you know that because we've spoken about that, but I just don't understand why we have to change the makeup. If it's been going well, DPW is doing the work, that's the problem I do have with this. I just can't be made to understand why there's still going to be seven, other than now you're explaining that the County Executive wants the ultimate authority, so to speak.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

The County Executive wants to be more actively involved. I mean, aside from the fact that the project is going to be something that the County will, just by definition, be more involved in, his

view is that he realizes he's still going to have a minority of the entire membership, but he believes that having a greater representation on that board will give him the ability to have a greater impact on what the JFA does.

LEG. NOWICK:

If that should occur and there are seven members with the County Executive having the majority, because with the Minority Leader he would, could he then, with this Home Rule Message, be able to hire employees at a compensation, would he be able to do that?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

The County Executive won't be hiring people.

LEG. NOWICK:

Well, no, but his representation through the JFA could.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

The JFA with a majority. But again, I would say it's four representatives from the Legislature, it's three from the County Executive. There's no ••

LEG. NOWICK:

But you're counting the Minority Leader.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

I'm not because ••

LEG. NOWICK:

Oh.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

•• that would be an insult to the Minority Leader whose independence is well•renowned in this County. There were 38 vetoes last year where Legislators, on a bipartisan basis, voted to override the County Executive. I see no lock•step between the County Executive and the Minority Leader or the Democratic Caucus on a regular basis. This is an independent Legislative body, it's got a well established tradition of being independent, so I would view four

representatives from the Legislature as being a clear majority for the Legislature.

LEG. NOWICK:

Okay, thank you.

LEG. CARACCILOLO:

Angie?

LEG. ALDEN:

You have a list.

D.P.O. CARPENTER:

There's a list; do you want to go on, Legislator Caracciolo? Legislator Lindsay.

LEG. LINDSAY:

Hey, I never thought my turn would come.

LEG. ALDEN:

Your time has come, Bill.

LEG. LINDSAY:

Actually, I'm really kind of surprised at some of the questioning that's coming from the shoe because we've been kicking around the issue of building a jail for as long as I've been here. I mean, the contract to hire the architect was signed in the last administration.

Last year, I think just around this same time, we voted with a wide majority to give to the Dormitory Authority the ability to build this facility. And I reluctantly voted for that resolution, and I say reluctantly because the Dormitory Authority has a reputation throughout the State of taking such total control of a project that you don't have any local control at all. And before us right now is a similar resolution to give the control of this facility to a local body that was created by this Legislature at some point in time, the JFA, or we asked the State to do it. So you have the ability of home control with the same advantages that you had under the Dormitory Authority in building the facility.

You know, don't make any mistake about it, the jail is going forward with or without this

resolution. The issue before you now is whether a substantial amount of money can be saved by using the agency rather than directly through DPW. And I am one that, you know, the debate over Wicks has been going on for 25 years. There is, you know, organizations like the State Chamber of Commerce, like the School Board Association that's swear up and down that there's a 20% savings by eliminating Wicks; I'm not convinced to that. But I'm very happy to hear DPW say they're going to bid it both ways, because what it does for you, it gives you a second bite at the apple and whichever is the cheapest way, that's what we're going to do. And I think that makes an awful lot of sense and could probably end the debate altogether.

The big difference between when we built Cohalan is the JFA was in place but turned the entire construction over to the Dormitory Authority and really took them out of it, they were just an entity. Now, from what I understand, JFA is going to turn it over to Public Works to proceed with the process that's already been started, to use the same architect that we've already approved, to use the same construction managers that we're already working with, doing the value engineering, trying to keep costs under control. And you know, I think the issue is are we going to give DPW the ability to potentially save millions of dollars or not, and it boils down to that. It has nothing to do with whether we're going forward with the project or not.

D.P.O. CARPENTER:

Legislator O'Leary.

LEG. O'LEARY:

Yeah, I'm going to cut right to the chase here, as is my usual MO so to speak. My perception of this is that it's changing the composition of the JFA and the current composition is not controlled by the Legislature, as you alluded to, but the majority in the Legislature; three of the five, the PO and the Leg would come from, you would assume, the majority. And in effect what's occurring here, by changing the composition of the JFA, we're switching that majority control that we have in the Legislature to the County Executive and that clearly is what's being done. In my estimation, what we're doing is relinquishing whatever authority we have here in the Legislature and not a full Legislative body authority, but the majority in the Legislature, and we're relinquishing that authority to the County Executive who is picking up three appointments and has, in fact, the Minority Leader currently who's of his same political persuasion. Contrary to your statement about him being independent, etcetera, you know, when push comes to shove, any way you break that down, any way you break that down, the new component of the

seven members of the JFA, by my account it's four Executive, three Majority Legislature; so in effect, we're relinquishing that majority. That's my first point.

The second point is I have had conversations, as little as maybe an hour ago, with the Chief of Staff of Senator Johnson who is the sponsor from the Senate with respect to this amended resolution. Now, he indicates yes, the session is going to close Thursday, but there's an outside chance, an outside chance that they may be still meeting Friday. Now, my proposal for consideration by this body is if we have the wherewithal today to recess this particular special meeting until tomorrow and address what's the majority here concerns which is the composition of the JFA and also the compensation section, the provision regarding compensation, the •• we all •• we all want to save the money by waiving Wicks and there's a PLA written into this, that's all good stuff, that is all good stuff. But my read on this is that the major objection is the changing of the composition of the JFA, number one; and number two, putting a provision in there which would allow for compensation of individuals over and above the JFA personnel.

So I'm told •• I'm told by the Chief of Staff of State Senator Johnson that if we did that, they're willing to amend •• they're willing to amend the language and the composition up in Albany, we can come back tomorrow, and I'm sure we'll have a lot more support for this particular initiative than we have right now.

LEG. FOLEY:

Madam Chair?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Can I respond or ••

D.P.O. CARPENTER:

Thank you. You want to respond? Sure, go ahead.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, I wasn't sure, I thought they were statements but at least the one is worthy of a response. I understand the first point that you made, I just think that my starting point in analysis is different than yours. I look at it from a standpoint of an institutional standpoint as opposed to political. If your starting point is political in terms of who's going to have a majority, your argument makes sense. If you look at it from an institutional standpoint which is

the way I've always looked at it, the Legislature as an institution has the clear majority, not the County Executive. So really it's your philosophy on where you start; I start institutionally, you start politically.

D.P.O. CARPENTER:

Thank you. Legislator Caracciolo?

LEG. CARACCIOLO:

Thank you, Madam Chair. Mr. Sabatino, earlier there was some discussion along the lines of additional disclosure that this legislation provides and requires of the members of the JFA. In fact, I think you said something about the number nine and that to me would clearly be an unprecedented amount of disclosure.

What type of disclosure •• because as you know, as former Legislative Counsel, I have attempted many times to repeal the provision under current County law where every one of us has to file a financial disclosure, but once we do so, if there are any requests for that information it's redacted. And the public or whoever the third party is that's looking for that information can't really obtain what they'd like to obtain, and that is not only where your investments might be or your property may be located and what your liabilities might be but, you know, essentially what the dollar amounts associated with that to determine whether or not there are inflows and outflows that make sense.

So that said, in term of the additional disclosure, first, I know the County Executive •• and I, you know, give credit where credit is due •• has supported my attempts to repeal the redacting provision; hopefully we can revisit that again soon. But aside from that, the additional disclosure, where, when, how and what's required?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, I was talking across the board. For example ••

LEG. CARACCIOLO:

Hold on a minute, Paul. I think there's some horseshoe negotiation attempting to take place.

LEG. LOSQUADRO:

Mike, is that horse trading?

LEG. CARACCILOLO:

Horse trading, that's it.

P.O. CARACAPPA:

We're trying to make progress is what we're trying to do.

LEG. CARACCILOLO:

Okay. Paul?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

I was referring to a whole range of disclosures. So for example, for the first time you'll have a provision that requires lobbyists who deal with the agency to comply with the State provision, so they'll be disclosing all of the expenditures, receipts of funds, who the clientele are, so that's going to be a brand new type of disclosure for people who are actually engaged in lobbying activity. With respect ••

LEG. CARACCILOLO:

Before you go further.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Okay.

LEG. CARACCILOLO:

Just clarify who would be lobbying whom for what? I can't hear the response.

LEG. FOLEY:

It's in the annual report.

LEG. CARACCILOLO:

Hold oh, Paul.

LEG. FOLEY:

I'm sorry.

LEG. CARACCILO:

Again, who would be required to report and for ••

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, somebody who •• you know, I don't know who •• I don't know who the person would be that's going to actually engage. But for example, you know, if they •• theoretically, if they need a bond counsel to deal with, you know, a bond issue or if they need somebody to deal with, you know, the technical advice that one of the Legislators was referring to before, they could conceivably be, you know, lobbying in that connection. You're not going to know until you actually see, you know, who the person is, but that's the whole point, it will be disclosed under that provision which is something that doesn't exist right now.

The other points I was making in terms of the openness is that all of the audit and financial books, records and documents are going to be required to be filed on a periodic basis with the Ways and Means Committee in the Assembly, the Finance Committee in the Senate. You're going to have prohibitions on who can do the auditing, so if somebody was an employee for a period of •• I'm sorry, if somebody did an audit for a period of two years prior to the retention of a new auditor for this agency doing work for the agency, they would be prohibited from taking on that particular job assignment, so you'll have a prohibition in terms of who can do the auditing. The State Comptroller will ••

LEG. CARACCILO:

Paul, I can't hear you, hold on. Apparently this is going to be recessed and people are getting excited about coming back. But that said, I would like to hear your responses.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, the point I was making is that there'll be restrictions on who can actually be engaged in doing the auditing of the books that's going to be required. The restrictions will be that somebody who previously did some type of audit work in connection with the agency will not be able to do it if it was in the prior two year period of time. There's another restriction that deals with a five year period of time. It also puts your restriction that if you're doing the auditing work, just like _Sarbanes Oxley_, you can't be doing other kinds of work, you know, tax work or appraisal work or consulting work for the agency. So you've got a whole series of what I

consider to be the full disclosure transparency provision.

LEG. CARACCILO:

Okay. Is there anything in the legislation that would prohibit campaign contributions by interested parties with regard to the bidding?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Not in this provision, not in this statute, no.

LEG. CARACCILO:

Okay. Why not? I know •• I know the County Executive as a County Legislature •• Legislator attempted, and many times I cosponsored legislation with him, to increase reporting requirements, to have more disclosure and to prohibit, although he never filed a bill, those individuals who do business with the County from making political contributions. That to me is •
• everything you've indicated that's in this legislation I'm in favor of. I do have some concerns about the increase in membership and the composition, so don't mistake what I just said.

But that aside, why can't we incorporate some stricter compliance with respect to prohibition of campaign contribution? Because you know and I know •• and let's be honest, okay •• whether it's this administration or former administrations, Republican or Democrat, it doesn't matter. Any one of those administrations tap the well•healed who do business with the County, particularly construction managers and contractors. Why can't we adopt a law as part of this, this huge project •• I mean, am I incorrect to state that this would be the most expensive County Capital Project?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

It's the largest since the Southwest Sewer District which ended in 1981, right.

LEG. CARACCILO:

Okay, with the exception of Southwest, yeah. I mean, we're talking about hundreds of millions of dollars. So what would be •• or is there a concern that we should not include a provision like that?

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, I mean, I think the short answer is you have to walk before you run. I mean, this is going

to be the first State authority with any kind of disclosure.

LEG. CARACCILO:

But you would support that.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Any kind of disclosure and transparency.

LEG. CARACCILO:

You would support that, I know you would support that.

CHIEF DEPUTY COUNTY EXECUTIVE SABATINO:

Well, I'm irrelevant, I don't have a voting •• I don't have a vote in the State Assembly or the State Senate or here. But what's significant is that there's an enormous number of reforms and disclosures, in this bill you're not going to find anyplace else for a State authority; that I think is a major accomplishment.

LEG. CARACCILO:

And I think it's a long way towards a major accomplishment. Maybe with that addition of that other provision of prohibiting campaign contributions, it would complete the loop. So maybe in the next 24 hours that could be discussed, although I'm not optimistic because a lot of people talk the talk but don't want to walk the walk. Thank you.

P.O. CARACAPPA:

There's a list but I don't know if the speakers, Legislator Lindsay, Foley and Alden want to speak. I'm going to make •• we're going to skip over this for a second. I'm going to make a motion, second by Legislator Lindsay, to set the public hearing for 2:30 P.M. on Tuesday June 28th, 2005, in the Maxine S. Postal Legislative Auditorium in Riverhead for the Suffolk County Community College Recommended Budget 2005•2006. All in favor? Opposed? Abstentions? That public hearing is set.

MR. BARTON:

P.O. CARACAPPA:

I'm going to recess this meeting until nine o'clock tomorrow morning which is Wednesday the 22nd.

LEG. MYSTAL:

No, 9:30.

LEG. BISHOP:

Nine thirty, ten o'clock?

MS. BURKHARDT:

No, there's committee meetings.

P.O. CARACAPPA:

The 22nd, nine o'clock.

(* The meeting was recessed at 2:15 P.M. *)